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OFFICE OF PETITIONS

In re Application of :
Nandi, et al. : DECISION ON APPLICATION FOR
Application No. 10/631,874 : PATENT TERM ADJUSTMENT
Filed: July 31, 2003 :
Atty. Dkt. No.: G-33302P1 :

This is a decision on the "PETITION UNDER 37 CFR § 1.705(b) FOR PATENT TERM ADJUSTMENT UNDER" timely filed April 14, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The PAIR screen will be adjusted to reflect a Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due of 122 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant requests that the Determination of Patent Term Adjustment be corrected from the zero day determination indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed February 23, 2005 to a determination of 122 days.

The Office initially determined a PTA of zero days based on zero days of Office delay and 168 days of applicants' delay.

Applicants, however, argue that there was no failure to engage in reasonable efforts to conclude prosecution and that there was an adjustment of 122 days attributable to the Office under 37 CFR 1.702(a)(2).

A review of the application history reveals that the Office errantly entered December 9, 2004 as the date a response to the non-final Office action was filed instead of June 24, 2004, as indicated on the reply contained in the official application file. Accordingly, at the time of allowance, there was no failure to engage in reasonable efforts to conclude prosecution, as argued by applicants.

However, an adjustment of 122 days can be attributed to the Office under 37 CFR 1.702(a)(2). The delay began October 26, 2004, the day after the date that is four months after the date a reply to the non-final Office action was filed, and ended February 23, 2005, the date Notice of Allowance was mailed.

In view thereof, at the time of allowance, applicants were entitled to an adjustment of 122 days, as argued.

The Office acknowledges receipt of the required application fee of \$200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation